

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

JOHN WR DOE

SUMMONS

Plaintiff,

Index No:

vs.

HESHI NUSSBAUM; CAMP MOGEN,
AVRAHAM; CAMPS MOGEN AVRAHAM,
HELLER, STERNBERG, INC.; STERNBERG,
HELLER, MOGEN AVRAHAM THE SHMA
CAMPS, LLC; UNITED JEWISH APPEAL (UJA)
FEDERATION OF NEW YORK,

Defendants.

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorneys within 20 days after the service of this summons, exclusive of the date of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

This Court is the proper venue for this action because it is the applicable court of jurisdiction in which the plurality of parties are located/have their principal place of business.

Dated: October 28, 2019
New York, New York

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**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

JOHN WR DOE

Index No:

Plaintiff,

COMPLAINT

vs.

HESHI NUSSBAUM; CAMP MOGEN,
AVRAHAM; CAMPS MOGEN AVRAHAM,
HELLER, STERNBERG, INC.; STERNBERG,
HELLER, MOGEN AVRAHAM THE SHMA
CAMPS, LLC; UNITED JEWISH APPEAL (UJA)
FEDERATION OF NEW YORK,

Defendants.

Plaintiff John WR Doe ("Plaintiff"), by and through his undersigned attorneys, as and for his
Complaint against Defendants, alleges as follows:

NATURE OF ACTION

1. This action is brought under the auspices of New York's *Child Victims Act*.¹ It concerns the repeated acts of sexual abuse and violence committed by, among others, a learning rabbi against Plaintiff John WR Doe, who was a camp attendee. John WR Doe was approximately eight years old when the abuse began.
2. Plaintiff John WR Doe asserts state law claims for negligence; sexual abuse of a child by a person of trust; negligent hiring, retention, and supervision; negligence and intentional infliction of emotional distress; assault; and battery. Plaintiff seeks monetary damages for the injuries he has suffered.

¹ See Rule 214-g of New York Rules of Civil Practice Law & Rules ("CPLR").

3. The incidents alleged in this Complaint occurred in and around 1969 when Plaintiff was approximately eight years old and an attendee at Defendant Camp Mogen Avraham. These incidents constitute sexual offenses committed against a child fewer than eighteen years of age, as defined in Article 130 of the New York Penal Law.
4. Defendant Heshi Nussbaum (“Defendant Nussbaum”), among others, sexually, and otherwise abused Plaintiff by, on, and around the following locations: (i) Camp Mogen Avraham property, including within the classrooms at the Camp, and (ii) locations including, but not limited to, Plaintiff’s cabin and bunk at the Camp.

PARTIES

5. Plaintiff John WR Doe was born in 1961. He resides in New York City.
6. Upon information and belief, Defendant Nussbaum resides in Ontario, Canada.
7. Defendant Camp Mogen Avraham is a Jewish summer camp (“Mogen Avraham” or “Defendant Camp”), which has operated near Bear Mountain in New York and, upon information and belief, is currently located at 169 Laymon Road, Swan Lake, New York 12783.
8. Defendant Camps Mogen Avraham, Heller, Sternberg, Inc. (“CMAHS”) is a New York corporation located at 1123 Broadway, Room 1019, New York, New York 10010.
9. Defendant Sternberg, Heller, Mogen Avraham The Shma Camps, LLC (“Shma”) is a New York limited liability corporation, located at P.O. Box 415, Woodmere, New York 11598.
10. Defendant United Jewish Appeal Federation of New York (formerly the Federation of Jewish Philanthropy) (“UJA”) is a social services organization, located at 130 East 59th Street, New York, New York 10022.

11. Upon information and belief, Defendants Camp, CMAHS, Shma and UJA jointly and/or collectively own, operate, and control the Defendant Camp.
12. Defendants listed above, in Paragraphs 7-10, are hereinafter collectively referred to as the “Entity Defendants.”
13. The incidents alleged in this Complaint occurred on the property owned, operated, and/or controlled by Entity Defendants, including locations in or around Bear Mountain, where Defendant Nussbaum, working as a learning Rabbi at Camp Mogen Avraham, possessed care, control, and unfettered access to minor children.

JURISDICTION AND VENUE

14. By reason of the foregoing, this Court has jurisdiction over the Defendants under Section 301, *et seq.* of the CPLR.
15. Venue is proper in this county under CPLR Section 503(a), because the plurality of parties, including Defendants CMAHS and UJA, are located and/or have their principal place of operation in New York County.

FACTS

16. Plaintiff John WR Doe was born on June 13, 1961, and grew up in Brooklyn, New York.
17. In or around summer of 1969, Plaintiff, while approximately eight years old, attended Mogen Avraham, a Jewish summer camp in Bear Mountain, near Hudson Highlands in New York. This camp was funded by Defendant UJA (formally the Federation of Jewish Philanthropy). At Mogen Avraham, seven to ten attendees were assigned to separate cabins, and most if not all camp attendees were at or under fifteen years of age.

18. During the Summer of 1969, Plaintiff attended Mogen Avraham for three weeks. Plaintiff arrived with a single bag, despite being sent to camp with two duffle bags, the latter of which included his clothing for the three weeks at camp.
19. At Mogen Avraham, Plaintiff met Defendant Heshi Nussbaum. Defendant Nussbaum worked as a learning Rabbi, overseeing minor attendees, including Plaintiff.
20. Defendant Nussbaum would take Plaintiff alone into his cabin and onto a bed within the cabin. Defendant Nussbaum then would situate Plaintiff onto his lap and begin asking him complicated questions about the Torah. While admonishing Plaintiff to become better informed about the Torah and its teachings, Defendant Nussbaum inserted his hand into Plaintiff's pants. Defendant began fondling Plaintiff's genitals, masturbating him.
21. Defendant Nussbaum's routine of sexual abuse and harassment of Plaintiff continued throughout the summer camp's duration, with Defendant Nussbaum having no supervision from the administrators and/or principals of Mogen Avraham and/or other Entity Defendants.
22. Thereafter, Plaintiff had difficulty sleeping. He would urinate in his bed every night, despite not having experienced this problem previously. Humiliated, Plaintiff would discreetly change and clean his own sheets each morning.
23. As Defendant Nussbaum continuously abused Plaintiff in the manner described above, Plaintiff began wearing bathing suits with drawstrings to make it more difficult for Defendant to access Plaintiff's genitals, hoping to dissuade Defendant Nussbaum from continuing the molestation. Plaintiff would double- and triple-tie knots into the drawstrings of his bathing suits, annoying Defendant Nussbaum, but not stopping

Defendant Nussbaum's continued sexual abuse in Plaintiff's bunk and room on the property of Mogen Avraham and/or other Entity Defendants.

24. Defendant Nussbaum approached Plaintiff one day at camp, telling him that he had located Plaintiff's other duffle bag, containing his clothes. Defendant Nussbaum informed Plaintiff that he had found Plaintiff's bag at Camp Steinberg, an all-girls camp, roughly 30 minutes away.
25. On approximately three occasions, Defendant Nussbaum would lurk around Plaintiff while Plaintiff took tests at Mogen Avraham. Sitting next to Plaintiff, Defendant Nussbaum would insert his hand down the back of Plaintiff's pants and digitally penetrate Plaintiff's anus. Defendant Nussbaum would subsequently rotate his hand to the front of Plaintiff's pants, fondling and masturbating Plaintiff's penis.
26. On one occasion, a fellow camp attendee dropped his pencil under the table while Defendant Nussbaum fondled Plaintiff. In retrieving his pencil, the camp attendee observed Defendant Nussbaum sexually abusing Plaintiff. Around two or three days before the end of camp, the camp attendee approached Plaintiff and told him that he saw what Defendant Nussbaum did. He informed Plaintiff that he had told the head counselor what was happening to Plaintiff. When Plaintiff asked what the head counselor said, the camp attendee said, "He said he was going to take care of it."
27. Not only was Plaintiff never approached by anyone working at the camp about the abuse, but Plaintiff continued to be abused by Defendant Nussbaum after the head counselor was informed of the abuse and molestation.
28. Around one and a half weeks into camp, Plaintiff's parents visited. Plaintiff begged his parents to take him home, sobbing. Plaintiff learned later that his parents spoke with the

head counsel about taking Plaintiff; however, the head counselor advised that Plaintiff was just “home sick” and recommended that Plaintiff stay for the remainder of the camp.

29. Plaintiff was abused twenty to thirty times by Defendant Nussbaum at Camp Mogen Avraham. Each instance of abuse lasted between five and ten minutes.

30. Despite notice of physical abuse by Defendant Nussbaum, no employee, agent, or representative of Entity Defendants ever reached out to discover the extent of Plaintiff’s abuse, how it had occurred, and what Entity Defendants knew about Defendant Nussbaum’s prior or contemporaneous acts of abuse.

31. Furthermore, Plaintiff alleges, upon information and belief, that Entity Defendants took no action to prevent Defendant Nussbaum from having access to children again.

32. To this end, Entity Defendants aided and abetted Defendant Nussbaum in his efforts to capitalize upon his unfettered access to minor campers to gratify his prurient interests, including his interest and abuse of Plaintiff.

33. Following Defendant Nussbaum’s abuse while at Mogen Avraham, Plaintiff began to experience intense anxiety when undressed. Plaintiff even began making conscious dietary choices, limiting himself to ketchup and bread, to minimize his use of the restroom and, by extension, the instances of feeling physically exposed and vulnerable.

34. Upon returning home, Plaintiff became very depressed and withdrawn. Eventually, in or around August 1969, Plaintiff informed his older sister about the abuse he suffered at the hands of Defendant Nussbaum. Plaintiff’s sister informed their parents, and Plaintiff’s parents reached out to Rabbi Ronnie Greenwald, iconic leader of the camp (and the sister camp, Camp Sternberg). No one spoke to Plaintiff, but his father informed him that Greenwald advised Plaintiff’s father that the camp had fired Defendant Nussbaum.

35. Plaintiff alleges, upon information and belief, that, even before Plaintiff's abuse, in or around 1965 to 1967, Defendant Nussbaum's involvement in Yeshiva Toras Emes was terminated for illegal behavior with students.
36. Plaintiff alleges, upon information and belief, that Rabbi Ronnie Greenwald worked with Defendant Nussbaum at Yeshiva Toras Emes, yet subsequently hired Defendant Nussbaum at Camp Mogen Avraham following Defendant Nussbaum's termination from Yeshiva Toras Emes.
37. Furthermore, Plaintiff alleges, upon information and belief, that sometime in or around 1967 through 1969, Camp Mogen Avraham staff, including Greenwald, congregated to discuss Defendant Nussbaum's misconduct relating to camp attendees. Plaintiff does not know if his abuse by Defendant Nussbaum was part of this discussion, but Plaintiff believes nothing further was done, either to terminate Defendant Nussbaum or as recourse to Nussbaum's victims. To Plaintiff's knowledge, law enforcement was not contacted.
38. In the early 1980s, in Toronto, Canada, Defendant Nussbaum pled guilty to child abuse charges, but served no jail time. In or around 2012, Defendant Nussbaum was arrested in Toronto, Canada, for abuse against multiple minors. Plaintiff learned that this arrest centered on sexual abuse and resulted in a civil lawsuit involving multiple plaintiffs.
39. As a direct result of the conduct of Defendants described herein, Plaintiff was prevented and will continue to be prevented from performing many normal daily activities and achieving full enjoyment of his life. Defendants' roles in the sexual abuse and molestation of Plaintiff, either actively or impliedly, have caused Plaintiff considerable emotional distress, including but not limited to: great pain of mind and body; shock; emotional

distress; discomfort; physical manifestations of emotional distress; depression; anxiety; embarrassment; loss of self-esteem; disgrace; humiliation; loss of enjoyment of life; trust issues; sleep disturbances/sleeplessness; sensory issues, particularly to touch; distrust and difficulty establishing meaningful interactions with persons of authority, including doctors, psychologists, and therapists. Throughout his childhood and adolescence, Plaintiff was afraid of forming relationships with others, romantically or otherwise, as Plaintiff felt tainted from his childhood abuse. The intersection between Plaintiff's abuse and the Torah has profoundly scarred Plaintiff's spiritual relationship, which has brought Plaintiff tremendous pain. The abuse has also negatively affected Plaintiff's relationship with children, including his own, as well as Plaintiff's relationship with his parents.

40. The injuries impacted upon Plaintiff through the actions of Defendants continue to incur expenses for mental health treatment, counseling, and therapy. Plaintiff's injuries resulted in Plaintiff dropping out of college in the early 1980s. Thereafter, Plaintiff's parents sent him to a psychiatrist, who informed them that Plaintiff was profoundly depressed. Based on information and belief, Plaintiff has and will continue to incur loss of income and loss of earning capacity.

CAUSES OF ACTION

COUNT I NEGLIGENCE CHILDHOOD SEXUAL ABUSE AND VICARIOUS LIABILITY (Against All Defendants)

41. Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "40" above with the same force and effect as if more fully set forth here, and further alleges:

42. At all relevant times alleged herein and during his employment, Defendant Nussbaum was an agent and/or employee of Entity Defendants, and was thereby given access to Plaintiff John WR Doe during the course and scope of his duties, when Entity Defendants either knew or should have known that Defendant Nussbaum presented an unreasonable risk of harm to minor camp attendees.
43. All Defendants had a non-delegable duty to protect their minor campers, like Plaintiff, from unwanted sexual contact, sexual abuse, and the associated trauma resulting therefrom. Here, Defendants failed to take any reasonable steps to ensure the safety of their camp attendees, and Plaintiff in particular.
44. Entity Defendants, by and through their agents, servants and/or employees, had actual knowledge, knew, or reasonably should have known of Defendant Nussbaum's dangerous and exploitative propensities and/or that Defendant Nussbaum was an unfit agent because of his sexual interest in children.
45. It was reasonably foreseeable that if Entity Defendants did not adequately exercise or provide the duty of care owed to children in its control and care, including but not limited to Plaintiff, the children entrusted to their care would be vulnerable to sexual abuse by Defendants' agents, servants, and/or employees, including Defendant Nussbaum.
46. Defendants each breached the duty of care owed to the Plaintiff by failing to protect him from foreseeable harm of sexual misconduct of its employees or personnel, including Defendant Nussbaum.
47. As a result of the above-described conduct, Plaintiff has suffered, and will continue to suffer, great pain of mind and body; shock; emotional distress; discomfort; physical manifestations of emotional distress; depression; anxiety; embarrassment; loss of self-

esteem; disgrace; humiliation; loss of faith; loss of enjoyment of life; trust issues; difficulty establishing meaningful interactions with others; sleep disturbances/sleeplessness; sensory issues, particularly to touch; distrust and difficulty interacting with persons of authority, including doctors, psychologists, and therapists; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

48. Per CPLR § 1603, the foregoing cause of action is exempt from the operation of CPLR § 1601 by reason of one or more of the exemptions provided under CPLR § 1602, including but not limited to CPLR §§ 1602(2), 1602(7).

COUNT II
NEGLIGENCE – HIRING/RETENTION
(Against Entity Defendants)

49. Plaintiff repeats and realleges each and every allegation contained in paragraphs “1” through “48” above with the same force and effect as if more fully set forth here, and further alleges:

50. Entity Defendants each had a duty to protect Plaintiff when he was entrusted to their care by Plaintiff's parents. Consequently, Entity Defendants owed Plaintiff, in addition to a duty of ordinary care, the higher duty of care for adults supervising children within their care and control. Plaintiff was owed, at minimum, by Entity Defendants a duty to be protected from harm inflicted by Defendant Nussbaum, when Plaintiff received services from the Entity Defendants.

51. Entity Defendants, by and through their agents, servants, and/or employees, had actual knowledge, knew, or reasonably should have known of Defendant Nussbaum's dangerous and exploitative propensities and/or that Defendant Nussbaum was an unfit agent because of his sexual interest in children. It was reasonably foreseeable that if the Entity Defendants did not adequately exercise or provide the duty of care owed to children in their control and care, including but not limited to Plaintiff, he would be vulnerable to sexual abuse by Entity Defendants' agents, servants, and/or employees, including Defendant Nussbaum.
52. Entity Defendants each breached the duty of care owed to Plaintiff by failing to protect him from foreseeable harm of sexual misconduct of their employees or personnel, including Defendant Nussbaum.
53. As a result of the above-described conduct, Plaintiff has suffered, and will continue to suffer, great pain of mind and body; shock; emotional distress; discomfort; physical manifestations of emotional distress; depression; anxiety; embarrassment; loss of self-esteem; disgrace; humiliation; loss of faith; loss of enjoyment of life; trust issues; difficulty establishing meaningful interactions with others; sleep disturbances/sleeplessness; sensory issues, particularly to touch; distrust and difficulty interacting with persons of authority, including doctors, psychologists, and therapists; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

54. Per CPLR § 1603, the foregoing cause of action is exempt from the operation of CPLR § 1601 by reason of one or more of the exemptions provided under CPLR § 1602, including but not limited to CPLR §§ 1602(2), 1602(7).

**COUNT III
NEGLIGENT SUPERVISION
(Against Entity Defendants)**

55. Plaintiff repeats and realleges each and every allegation contained in paragraphs “1” through “54” above with the same force and effect as if more fully set forth here, and further alleges:

56. Entity Defendants had a duty to provide reasonable supervision of their employee and agent, Defendant Nussbaum, when he interacted with minor campers and to follow up on any reports of misconduct.

57. It was reasonably foreseeable that those employees and agents of Entity Defendants with a sexual interest in children, including Defendant Nussbaum, would act upon these interests and sexually abuse children, including Plaintiff, unless properly supervised.

58. Entity Defendants, by and through each entity’s respective agents, servants and/or employees, had actual knowledge, knew, or reasonably should have known, of Defendant Nussbaum’s dangerous and exploitative propensities and/or that Defendant Nussbaum was an unfit agent, due to his sexual interest in children.

59. Despite such knowledge, Entity Defendants each breached its duty to provide reasonable supervision of Defendant Nussbaum. These failures enabled Defendant Nussbaum, who was routinely in a position of ready access to children, to sexually abuse Plaintiff.

60. At all times relevant hereto, including, but not limited to, during the sexual abuse of minor campers, Defendant Nussbaum was acting in the course and scope of his employment with Entity Defendants as their agent, apparent agent, servant and/or employee.
61. As a result of the above-described conduct, Plaintiff has suffered, and will continue to suffer, great pain of mind and body; shock; emotional distress; discomfort; physical manifestations of emotional distress; depression; anxiety; embarrassment; loss of self-esteem; disgrace; humiliation; loss of faith; loss of enjoyment of life; trust issues; difficulty establishing meaningful interactions with others; sleep disturbances/sleeplessness; sensory issues, particularly to touch; distrust and difficulty interacting with persons of authority, including doctors, psychologists, and therapists; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.
62. Per CPLR § 1603, the foregoing cause of action is exempt from the operation of CPLR § 1601 by reason of one or more of the exemptions provided under CPLR § 1602, including but not limited to CPLR §§ 1602(2), 1602(7).

COUNT IV
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(Against All Defendants)

63. Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "62" above with the same force and effect as if more fully set forth here, and further alleges:

64. By employing Defendant Nussbaum and/or allowing him to serve as their agent, by choosing to place Defendant Nussbaum in a position wherein he could work unsupervised and in close proximity to children, and by allowing Defendant Nussbaum access to numerous children, Entity Defendants caused Plaintiff to be sexually abused. Entity Defendants acted with extreme and outrageous conduct, which intentionally and/or recklessly caused severe emotional distress and bodily harm to Plaintiff.
65. Defendant Nussbaum, in his sexual grooming and repeated sexual abuse of Plaintiff, acted with extreme and outrageous conduct that would shock the conscious of a reasonable person, when he repeatedly and brutally sexually abused an eight year old camper. This conduct was atrocious and transcended all bounds of decency, such that this conduct would be utterly intolerable in a civilized society.
66. Plaintiff suffered severe emotional distress, including severe mental anguish, due to Defendants' intentional and/or reckless, extreme, and/or outrageous conduct.
67. Per CPLR § 1603, the foregoing cause of action is exempt from the operation of CPLR § 1601 by reason of one or more of the exemptions provided under CPLR § 1602, including but not limited to CPLR §§ 1602(2), 1602(7).

COUNT V
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
(In the Alternative to Count IV, Against Entity Defendants)

68. Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "67" above with the same force and effect as if more fully set forth here, and further alleges:
69. By employing Defendant Nussbaum, by choosing to place Defendant Nussbaum in a position wherein he could work with close proximity to children, and by allowing

Defendant Nussbaum access to numerous children, Entity Defendants breached the duty of care that they owed to Plaintiff and caused Plaintiff to be sexually abused. Entity Defendants negligently placed Plaintiff in danger of bodily harm and caused Plaintiff to suffer extreme physical injury and emotional distress as a result.

70. Entity Defendants breached the duty of care that they owed to Plaintiff by employing and continuing to allow Defendant Nussbaum to serve as their agent, holding out their premises as a safe environment for children, despite having reason to know of the potential dangers to children therein, and subjecting Plaintiff to sexual abuse and harassment at the hands of Defendant Nussbaum.

71. By employing Defendant Nussbaum to work unsupervised with children and/or allowing him to instruct minor camp attendees, Entity Defendants breached the duty of care that they owed to Plaintiff by allowing him to have ready, unfettered access to minor campers, including Plaintiff, to gratify his prurient desires.

72. Plaintiff suffered severe emotional distress, including severe mental anguish and physical injury, due to Entity Defendants' negligence and extreme recklessness.

73. Per CPLR § 1603, the foregoing cause of action is exempt from the operation of CPLR § 1601 by reason of one or more of the exemptions provided under CPLR § 1602, including but not limited to CPLR §§ 1602(2), 1602(7).

COUNT VI
NEGLIGENT MISREPRESENTATION
(Against Entity Defendants)

74. Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "73" above with the same force and effect as if more fully set forth here, and further alleges:

75. Entity Defendants each affirmatively represented to Plaintiff and his family that their camp sites, facilities, and programs were safe environments for children.
76. Entity Defendants each affirmatively represented to Plaintiff and his family that they had sufficient policies and procedures in place to ensure that children were safe in their camp sites, facilities, and programs. Entity Defendants understood, or ought to have understood, that these affirmative representations would be relied upon by Plaintiff and his parents.
77. Entity Defendants, by employing Defendant Nussbaum in a position in which he was entrusted to interact with children, represented to Plaintiff and his family that Defendant Nussbaum did not have a history of abusing, harassing, and/or molesting children, that Entity Defendants did not know or suspect Defendant Nussbaum had a history of molesting children and/or that Entity Defendants did not know that Defendant Nussbaum was a danger to children. Entity Defendants understood, or ought to have understood, that their representation would be relied upon by Plaintiff and his parents.
78. Each representation was material and false.
79. In addition to the representation made directly to Plaintiff and his parents, Entity Defendants, through their officials, made these representations with knowledge and intent that they would be communicated to Plaintiff through his parents'/caregivers' words and actions. Entity Defendants also had reason to believe that the representations would influence the amount and type of time spent in close proximity with Defendant Nussbaum, Defendant Nussbaum's access to Plaintiff, and Defendant Nussbaum's ability to molest Plaintiff.
80. Based on information and belief, Defendant Nussbaum had a history of molesting children, and was openly and notoriously grooming and abusing Plaintiff during the relevant timeframe, and Entity Defendants knew or should have known that Defendant Nussbaum

had a history of sexually molesting children and/or that he posed an obvious and ongoing danger to children, specifically Plaintiff.

81. Plaintiff and his family justifiably relied upon Entity Defendants' misrepresentations, which caused Plaintiff to suffer harassment, molestation, and sexual abuse by Defendant Nussbaum, as well as suffer other damages described herein.

82. Per CPLR § 1603, the foregoing cause of action is exempt from the operation of CPLR § 1601 by reason of one or more of the exemptions provided under CPLR § 1602, including but not limited to CPLR §§ 1602(2), 1602(7).

**COUNT VIII
ASSAULT
(Against Defendant Nussbaum)**

83. Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "82" above with the same force and effect as if more fully set forth here, and further alleges:

84. Defendant Nussbaum, by his conduct, placed Plaintiff in fear of imminent harm and offensive contact.

85. Defendant Nussbaum's physical molestation and abuse of Plaintiff was entirely unjustified and constitutes an assault upon Plaintiff.

**COUNT IX
BATTERY
(Against Defendant Nussbaum)**

86. Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "85" above with the same force and effect as if more fully set forth here, and further alleges:

87. Battery is the intentional wrongful physical contact with another person without consent.

88. Defendant Nussbaum's intentional physical molestation and abuse of Plaintiff was entirely unjustified, offensive in nature, and constituted battery upon Plaintiff.

WHEREFORE, Plaintiff John WR Doe respectfully requests that the Court enter judgment in his favor against Defendants and issue an order containing the following relief:

- (a) compensatory and punitive damages against each Defendant, jointly and severally, together with interest and costs of suit and in excess of any jurisdictional amount requiring compulsory jurisdiction, or arbitration.
- (b) Plaintiff's attorneys' fees and costs.
- (c) Such other and further relief as the Court may deem just and proper.

DATED: October 28, 2019
New York, New York

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